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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,708	03/28/2001	Shawn P. McAllister	1400.4100285	4616
25697	7590	06/30/2005	EXAMINER	
ROSS D. SNYDER & ASSOCIATES, INC.			HAN, CLEMENCE S	
PO BOX 164075			ART UNIT	
AUSTIN, TX 78716-4075			PAPER NUMBER	

2665

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/821,708

Applicant(s)

MCALLISTER ET AL.

Examiner

Clemence Han

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 16, 23-25, 30-32, 35-40, 42-44 and 46 is/are rejected.
- 7) ☒ Claim(s) 11-15, 17-22, 26-29, 33, 34, 41 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/17/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1-10, 16, 23-25, 30-32, 35-40, 42-44 and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Watanabe et al. (US Pub 2003/0189926).

Regarding to claim 1, Watanabe teaches a method for rerouting a connection in a data communication network, comprising: establishing the connection in the data communication network, wherein the connection is managed by a control plane 1 (Figure 1); monitoring status of a selected characteristic of the connection using a user connection monitoring function [0209] (Figure 23); and when the status of the selected characteristic is determined to be unacceptable, initiating control plane rerouting of the connection [0211] (Figure 23).

Regarding to claim 2, Watanabe teaches the selected characteristic includes continuity on the connection [0208].

Regarding to claim 3, Watanabe teaches the selected characteristic includes at least one of: data corruption on the connection, data loss on the connection, latency along the connection, and misinsertion of data on the connection [0208].

Regarding to claim 4, Watanabe teaches the data communication network supports asynchronous transfer mode (ATM) protocol [0208] (Figure 23).

Regarding to claim 5, Watanabe teaches the control plane is a signaling plane [0176].

Regarding to claim 6, Watanabe teaches the signaling plane uses private network-to-network interface (PNNI) [0007].

Regarding to claim 7, Watanabe teaches the connection is a soft permanent virtual connection (SPVC) [0208].

Regarding to claim 8, Watanabe teaches the connection is a switched connection [0054].

Regarding to claim 9, Watanabe teaches the user connection monitoring function utilizes operation and management (OAM) cells [0226].

Regarding to claim 10, Watanabe teaches the user connection monitoring function includes OAM continuity checking [0226].

Regarding to claim 16, Watanabe teaches initiating control plane rerouting of the connection further comprises initiating a hard reroute (Figure 25).

Regarding to claim 23, Watanabe teaches a data communication network, comprising: a source node (A in Figure 23); a destination node (D in Figure 23) operably coupled to the source node via a first connection (A-B-C-D in Figure 23) that carries a data stream, wherein the source node injects diagnostic traffic into the data stream [0226], wherein the destination node monitors the diagnostic traffic in the data stream [0226]; and a control block (1 in Figure 23) operably coupled to the source node and the destination node, wherein when status of a selected characteristic associated with the diagnostic traffic is determined to be unacceptable, the control block performs a control plane reroute that establishes a second connection (A-E-D in Figure 23) that couples the source node and the destination node [0211].

Regarding to claim 24, Watanabe teaches the data stream includes a plurality of asynchronous transfer mode (ATM) cells [0208] (Figure 23).

Regarding to claim 25, Watanabe teaches the diagnostic traffic includes operation and management (OAM) continuity checking cells [0226].

Regarding to claim 30, Watanabe teaches the first and second connections are soft permanent virtual circuits [0208].

Regarding to claim 31, Watanabe teaches the first and second connections are switched connections [0054].

Regarding to claim 32, Watanabe teaches the control block establishes the second connection as a part of a hard reroute (Figure 25).

Regarding to claim 35, Watanabe teaches the selected characteristic includes at least one of: data corruption on the first connection, data loss on the first connection, latency along the first connection, and misinsertion of data on the first connection [0208].

Regarding to claim 36, Watanabe teaches a method for rerouting a connection in an asynchronous transfer mode (ATM) data communication network, comprising: establishing the soft permanent virtual connection (SPVC) [0208] in the ATM data communication network, wherein the connection is managed by a control plane 1 (Figure 1); using operation and management (OAM) cells to monitor at least one characteristic of the connection [0226]; and when status of the at least one characteristic is determined to be unacceptable, initiating control plane rerouting of the connection [0211] (Figure 23).

Regarding to claim 37, Watanabe teaches the connection is a soft permanent virtual connection (SPVC) [0208].

Regarding to claim 38, Watanabe teaches the connection is switched virtual connection (SVC) [0010].

Regarding to claim 39, Watanabe teaches the control plane is a signaling plane [0176].

Regarding to claim 40, Watanabe teaches the signaling plane uses private network-to-network interface (PNNI) [0007].

Regarding to claim 42, Watanabe teaches a method for rerouting a connection in a data communication network, comprising: detecting a fault in the connection in the user plane; and triggering a reroute of the connection in the control plane based on the fault detected [0211] (Figure 23).

Regarding to claim 43, Watanabe teaches detecting a fault further comprises detecting a fault using operation and management (OAM) services running within the user plane [0226].

Regarding to claim 44, Watanabe teaches the connection is a soft permanent virtual connection (SPVC) [0208].

Regarding to claim 46, Watanabe teaches triggering a reroute further comprises triggering a hard reroute (Figure 25).

***Allowable Subject Matter***

3. Claim 11-15, 17-22, 26-29, 33, 34, 41 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments with respect to claim 1-46 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to the invention in general.

U.S. Patent 6,633,569 to Hemmady

U.S. Patent 6,097,699 to Chen et al.

U.S. Patent 5,872,770 to Park et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone



number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*C. H.*  
Clemence Han  
Examiner  
Art Unit 2665

  
STEVEN NGUYEN  
PRIMARY EXAMINER